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MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Violet Varona-Lukens, Executive Officer
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Director of Planning

At its meeting held May 31, 2005, the Board took the following action:

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Supervisor Knabe made the following statement:

“In 1996, voters approved Proposition 215, which ensures that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician.

“By approving this proposition, medical cannabis dispensaries have now begun to open. I believe that for the unincorporated areas, these dispensaries should be regulated and located in areas that will allow for the safe distribution of these materials while not having a negative impact on local neighborhoods.

“It is my understanding that some cities in California have instituted regulations. I believe that regulations should be developed for unincorporated areas of Los Angeles County especially as it relates to the proximity of these dispensaries near schools and residences, as well as notifying neighbors of their intent to open.”

David Nam, President, and Don Duncan, representing the California Medical Caregivers Association, and Richard W. Eastman, member of the Los Angeles County Commission on HIV Health Services, addressed the Board.

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After discussion, on motion of Supervisor Knabe, seconded by Supervisor Antonovich, unanimously carried, the Board instructed the Director of Planning in conjunction with County Counsel, the Director of Health Services, the Sheriff and the President of the Business License Commission to:

1. Study the issue of developing regulations for the unincorporated areas of the County regarding the opening of medical cannabis dispensaries, authorized under Proposition 215, to ensure that the dispensaries are located in areas that will allow for safe distribution of these materials while not having a negative impact on local neighborhoods; and
2. Report back to the Board within 30 days with recommendations on proposed regulations.

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Each Supervisor
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County Counsel
Director of Health Services
Director of Public Health
President, Business License Commission
Contact, Business License Commission

(ALSO SEE BOARD ORDER NO.101-A THIS DATE)

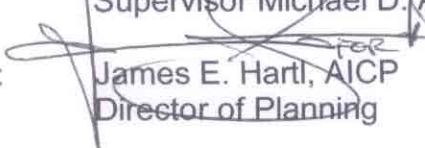


Los Angeles County
Department of Regional Planning
Director of Planning James E. Hartl, AICP



June 30, 2005

TO: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM:  James E. Hartl, AICP
Director of Planning

SUBJECT: REPORT ON MEDICAL MARIJUANA DISPENSARIES

On May 31, 2005, your Board directed this Department in conjunction with the County Counsel, the Department of Health Services, the Sheriff Department, and the Business License Commission to study the issue of appropriate regulations related to medical marijuana dispensaries and report back with recommendations on proposed regulations within 30 days. Although the Department of Regional Planning consulted with the other County agencies mentioned above, the report's content and recommendations are solely those of the Department of Regional Planning.

RECOMMENDATIONS

1. Approve the extension of Interim Ordinance No. 2005-0042U to May 30, 2006 which will continue to temporarily prohibit the establishment of medical marijuana dispensaries within the unincorporated territory of the County of Los Angeles.
2. In order to establish an effective comprehensive framework for regulating the production, transportation and distribution of medical marijuana in a manner similar to a Schedule II substance (a drug with a high potential for abuse that has a currently accepted medical use), direct the County Counsel, the Departments of Regional Planning, Sheriff and Health Services, and the Business License Commission to:
 - a. Prepare potential amendments to various titles of the County Code.
 - b. Review the existing medical marijuana provisions in State law, identify any inadequacies and propose potential legislative amendments.
 - c. Consult with appropriate State and Federal authorities as well as private organizations and individuals with expertise in the medical marijuana field.
 - d. Report back to the Board the results of these efforts.

3. Direct the Department of Health Services to study the appropriateness of reclassifying marijuana in the federal Controlled Substances Act from a Schedule I substance (a drug with a high potential for abuse that has no currently accepted medical use) to a Schedule II substance and report back to the Board.

BACKGROUND

When California voters approved Proposition 215, "The Compassionate Use Act of 1996", one of the Act's purposes was: "To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where the medical use is deemed appropriate and has been recommended by a physician . . ." The Act, which was codified as Section 11362.5 of the Health and Safety Code, contains little if any provisions to ensure that medical marijuana is not diverted to non-medical users. In 2003, the Legislature enacted provisions (Health and Safety Code Section 11362.7 et seq.) to clarify certain aspects of the Act. These provisions add definitions relating to persons (e.g. qualified patients, primary caregiver, etc.) authorized to engage in the medical use of marijuana, contain requirements relating to a voluntary patient identification card system, specify general limits on how much medical marijuana may be possessed by patients, and address restrictions on where medical marijuana may be used. However, these provisions inadequately regulate the cultivation and distribution of medical marijuana which has resulted in the diversion of the drug for illicit uses.

On May 31, 2005, the Board of Supervisors adopted Interim Ordinance No. 2005-0042U temporarily prohibiting medical marijuana dispensaries. On July 12, 2005, the Board will be conducting a public hearing to consider the extension of the interim ordinance to May 30, 2006. The interim ordinance could be extended a maximum of one additional year to May 30, 2007. Extension of interim ordinances requires a four-fifths vote.

The United States Supreme Court decision on June 6, 2005 in *Gonzales v. Raich* emphasized that the California law which allows medical marijuana use does not prevent the enforcement of the federal Controlled Substance Act which prohibits the cultivation, distribution and possession of marijuana. According to recent reports in the Los Angeles Times, on June 22, 2005, federal Drug Enforcement Administration agents raided several medical marijuana dispensaries in San Francisco. The Times also reported that these raids resulted in indictments for 19 persons who allegedly were using three medical marijuana dispensaries as fronts for illegal drug activity.

On June 14, 2005, the Board directed the Department of Health Services, the Sheriff Department, and the County Counsel to report back to the Board on the implications of the Supreme Court decision. In a separate action on the same day, the Board instructed the County Counsel, the Sheriff and the Director of Regional Planning to ensure compliance with Interim Ordinance No. 2005-0042U and report back to the Board on the enforcement of the ordinance.

COUNTY DEPARTMENT CONCERNS

The Department of Regional Planning met with representatives from the County Counsel, the Sheriff Department, the Business License Commission and the Department of Health Services on June 14, 2005 to discuss regulatory approaches for medical marijuana dispensaries and other aspects of medical marijuana. The following issues were raised:

- The full legal implications of the Supreme Court decision on *Gonzales v. Raich* on the County need to be identified.
- From a land use/zoning standpoint, medical marijuana dispensaries should be reviewed for their potential impacts on and compatibility with adjacent neighborhoods.
- Business license regulations may be appropriate for such things as hours of operation, background checks for operators and security concerns.
- An effective identification card system would be helpful to prevent unqualified persons from receiving medical marijuana.
- Medical marijuana dispensaries have been the site of flagrant illegal activities, such as for-profit sale of marijuana, robbery of marijuana stocks, disorderly and illegal conduct, submittal of fraudulent prescriptions, and reuse of prescriptions at more than one dispensary.
- There is a need for tracking mechanisms to effectively monitor the production, distribution, prescription, and use of medical marijuana. Schedule II substance regulations of the federal Controlled Substances Act constitute a viable framework for effectively regulating the entire "lifecycle" of medical marijuana, including medical marijuana dispensaries.
- Reclassification of marijuana from a Schedule I to a Schedule II substance in the Controlled Substances Act would eliminate most, if not all, concerns.

If you have any questions regarding this report, please contact me or Ron Hoffman of my staff at (213) 974-6457.

JEH:RDH:LE

c: Renée Campbell, President, Business License Commission
Lt. Richard Daniels, Sheriff Department
Dr. John Schunhoff, Chief of Operations, Dept. of Health Services
Larry Hafetz, Principal Deputy County Counsel
Violet Varona-Lukens, Executive Officer